Nos. 17-1717 and 18-18

IN THE

Supreme Court of the United States

THE AMERICAN LEGION, *et al.*,
Petitioners,

v.

AMERICAN HUMANIST ASSOCIATION, *et al.*,
Respondents.

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, *et al.*,
Petitioners,

v.

AMERICAN HUMANIST ASSOCIATION, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

BRIEF FOR THE JEWISH WAR VETERANS OF THE UNITED STATES OF AMERICA, INC. AS *AMICUS CURIAE* IN SUPPORT OF RESPONDENTS

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INTEREST OF *AMICUS CURIAE*[1]

The Jewish War Veterans of the United States of America, Inc. (JWV), organized in 1896 by Jewish veterans of the Civil War, is the oldest active national veterans' service organization in America. Incorporated in 1924, and chartered by an act of Congress in 1983, *see* 36 U.S.C. § 110103, JWV's objectives include "preserv[ing] the memories and records of patriotic service performed by the men and women of the Jewish faith and honor[ing] their memory," *id.* § 110103(12), and "shield[ing] from neglect the graves of our heroic dead," *id.* § 110103(13).

JWV has long taken an interest in the appropriate character of public war memorials. *See, e.g., Salazar v. Buono*, 559 U.S. 700 (2010) (regarding a Latin cross on federal land); *id.* at 726 n.10 (Alito, J., concurring) (citing JWV *amicus* brief); *Jewish War Veterans of United States v. United States*, 695 F. Supp. 3 (D.D.C. 1988) (invalidating display of cross on Marine Corps base under Establishment Clause). JWV successfully challenged the government display of a 43-foot-high Latin cross on Mt. Soledad in San Diego, California. *Trunk v. City of San Diego*, 629 F.3d 1099, 1107 (9th Cir. 2011).

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[1] Pursuant to this Court's Rule 37.6, counsel for *amicus curiae* certifies that this brief was not authored in whole or in part by counsel for any party and that no person or entity other than *amicus curiae*, its members, or its counsel has made a monetary contribution intended to fund the preparation or submission of this brief. All parties have filed letters with the Clerk granting blanket consent to the filing of *amicus curiae* briefs.

INTRODUCTION AND SUMMARY OF ARGUMENT

Jewish Americans have fought and served in every war since the American Revolution, and World War I was no exception. Approximately 250,000 Jews answered the United States' call to action in World War I. J. George Fredman & Louis A. Falk, *Jews in American Wars* 100 (6th ed. 1963). In that group, there were "[m]ore than 3,500 Jewish soldiers [who] gave their lives" for their country. *Buono*, 559 U.S. at 726 (Alito, J., concurring). An additional 12,000 Jewish soldiers were wounded, and over 1,100 received decorations for bravery. *Jews in American Wars* 100-01. All told, Jews made up nearly 6 percent of America's armed forces in World War I, despite comprising just over 3 percent of the country's population at that time, *Jews in American Wars* 100; *see also* Captain Sydney G. Gumpertz, *The Jewish Legion of Valor* 183 (1934).

Over 2,000 Jewish soldiers came from Maryland. *The Jewish Legion of Valor* 183. Among those who never returned home were Zadoc Morton Katz, who was killed in the successful 1918 battle to capture Montfaucon, *see* Michael Rugel, *Over There: Zadoc Morton Katz* (June 28, 2017), https://nmajmh.org/2017/06/over-there-zadoc-morton-katz, and Merrill Rosenfeld, who was recognized for "extraordinary heroism" after meeting his death while "leading a group that silenced an enemy machine-gun menacing his right flank," *The Jewish Legion of Valor* 307.

In Bladensburg, Maryland, a forty-foot-tall Latin cross is "prominently displayed in the center of one of the [county's] busiest intersections" and is "maintained

with thousands of dollars in government funds" as a memorial to American soldiers who were killed in World War I. *Am. Humanist Ass'n v. Md.-Nat'l Capital Park & Planning Comm'n*, 874 F.3d 195, 200 (4th Cir. 2017).

The question that this case presents is whether the government violates the Establishment Clause by maintaining the Bladensburg Cross as a memorial to those who gave their lives for this country in World War I. The answer to that question is "yes."

I.A. The cross is the preeminent symbol of Christianity. As this Court has recognized, the Christian scriptures teach that the cross symbolizes the sacrifice of Jesus and the possibility of eternal salvation for those who accept Jesus's teachings.

I.B. The religious potency of the cross is only heightened in the context of a war memorial. A war memorial is the means by which society commemorates those who made the ultimate sacrifice for their country. The message of salvation through Christ is of course of the deepest significance to the adherents of that faith who died for this country. But it does not commemorate or honor the sacrifice of Jewish soldiers who, with equal devotion, gave their lives to the country. Veterans of all stripes are united by their love of country, but they are not united by the cross. It does a disservice to both Jewish veterans and Christian veterans to suggest otherwise. And contrary to the suggestion of *amici*, this country has taken great care to ensure that the headstones of Jewish soldiers, both in World War I, and in the country's later wars, are marked with Stars of David rather than crosses. The fact that Europeans, whose countries have state religions, have used crosses

in graveyards, confirms rather than disproves, the religious significance of the cross in that setting.

I.C. The circumstances surrounding the Bladensburg Cross reflect the Cross's religious nature. The Cross was promoted and dedicated as a Christian memorial, notwithstanding the substantial Jewish population of Prince George's County. Although JWV cannot say whether any Jewish soldier is memorialized on the Cross, it is highly likely that the County provided at least some of the approximately 2,000 Jewish Marylanders who served in World War I. The Cross's message of Christian salvation does not speak to them, except as a message of exclusion. Nor does the Cross speak to or for the many Jewish people who currently live in Prince George's County and see the Cross as a towering Christian monument in the middle of a busy traffic circle.

II. JWV recognizes that the parties dispute, and this Court has long debated, the proper test for assessing Establishment Clause claims. But whatever the precise test may be, the Cross fails the Establishment Clause's core prohibition: that the government cannot privilege one religion over others.

As recently as last Term, this Court reiterated that "[t]he clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another." *Trump v. Hawaii*, 138 S. Ct. 2392, 2417 (2018) (alteration in original) (quoting *Larson v. Valente*, 456 U.S. 228, 244 (1982)). A government undertakes few tasks more solemn than honoring its war dead. And when the memorial takes the form of a religious symbol of an afterlife available only to

Christians, the government favors one faith over others in a profound way.

III. Affirming the Fourth Circuit's decision in this case would not, despite Petitioner Commission's claims, have the sweeping effect of invalidating every war memorial that features some religious symbolism. The Bladensburg Cross is nearly unique in its singular focus on Christianity.

ARGUMENT

I. The Bladensburg Cross Is A Sectarian Symbol.

The cross is the preeminent symbol of Christianity. It does not lose that meaning in the context of a war memorial. To the contrary, the message of the cross's promise of eternal salvation for Christian believers is only heightened by the war memorial context. And the Bladensburg Cross in particular carries that message of salvation for Christians.

A. The Latin cross is a religious symbol.

The cross's influence and status as a Christian symbol is regularly acknowledged by members of this Court. Over 75 years ago in what is perhaps the Court's foundational Establishment Clause decision, the Court recognized that "[s]ymbolism is a primitive but effective way of communicating ideas [and] the church speaks through the Cross, the Crucifix, the altar and shrine, and clerical reiment." *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 632 (1943). Justice Jackson emphasized the power that such symbols have over people as "the church speaks through the Cross." *Id.*

Justices writing in the Court's modern cases have

agreed. Justice Alito has recognized that "the cross is of course the preeminent symbol of Christianity." *Buono*, 559 U.S. at 725 (Alito, J. concurring). Justice O'Connor observed that the cross "is an especially potent sectarian symbol." *Capitol Square Review & Advisory Bd. v. Pinette*, 515 U.S. 753, 776 (1995) (O'Connor, J., concurring). And Justice Kennedy noted the difference between a temporary display of a crèche in a courthouse and a "permanent erection of a large Latin cross on the roof of city hall." While Justice Kennedy would have upheld the former, he explained the latter would be impermissible because it would be "an obvious effort to proselytize on behalf of a particular religion." *Cty. of Allegheny v. ACLU*, 492 U.S. 573, 605 (1989) (Kennedy, J., concurring), *abrogated by Town of Greece v. Galloway*, 572 U.S. 565 (2014).

These judicial observations reflect the role of the cross as revealed in Christian scripture. For non-Christians, "the preaching of the cross is to them that perish foolishness; but unto [Christians who] are saved it is the power of God." 1 Corinthians 1:18. To Christians, the cross symbolizes "Jesus[,] the author and finisher of [their] faith; who for the joy that was set before him endured the cross, despising the shame, and is set down at the right hand of the throne of God." Hebrews 12:2. Passages such as these remind Christian believers of Christianity's central theological claim: "that the son of God died on the cross to redeem the sins of humankind, that he rose from the dead, and that those who believe in him will also arise from the dead and have eternal life." Douglas Laycock, *Government-Sponsored Religious Displays: Transparent Rationalizations and*

Expedient Post-Modernism, 61 Case W. Res. L. Rev. 1211, 1239 (2011).

The cross remains pervasive both in life and, importantly, after death for Christian believers. The cross appears at baptisms, and is present throughout Christian worship. It is carved into and erected before Christian churches, which are considered "the house of God, and ... the gate of heaven," Genesis 28:17, and consecrated by bishops who adorn their vestments with crosses. After death, the cross is placed on headstones and in memorial cemeteries honoring Christians, symbolizing Christianity's promise of "everlasting life." John 3:16. To Christians, the "symbol of [Christian] belief greets [them] in the form of the Cross from the tower of every church, from every Christian grave stone and in the thousands of forms in which the Cross finds employment in daily life." Benjamin B. Warfield, *The Essence of Christianity and the Cross of Christ*, 7 Harv. Theol. Rev. 538, 592 (1914) (quoting Paul Feine, *Theologie Des Neuen Testaments* 120 (1910)).

B. The cross remains a religious symbol in the context of war memorials.

The Latin cross is not transformed into a secular symbol when placed on a war memorial. To be sure, the purpose of a war memorial is to commemorate the dead, but when a war memorial uses a cross, it commemorates the dead by evoking a conception of salvation and eternal life reserved for Christians. In that context, the cross is a powerful and honorable symbol for those who share that belief, but to non-believers, it commemorates something they do not accept. When gazing at a prominent forty-foot cross, many Jewish veterans do not

see a generic memorial to their fallen brothers and sisters in arms, be they Christian or Jewish. Rather, they see a reminder of the promise of salvation that they do not accept and from which they are excluded.

Put another way, a war memorial is one of the most profound monuments a society can erect because it attempts to honor for posterity the sacrifice of those who fell defending our country. The religious message of the cross—with its promise of eternal life after sacrifice—is only heightened, not diminished, in that solemn context. No one would think that a war memorial consisting of a large Star of David was intended to honor the sacrifice of Christian soldiers. The same point applies equally to a war memorial consisting of a large cross. The cross is a natural, but *sectarian*, symbol for commemorating sacrifice.

Petitioners and some of their *amici* nonetheless attempt to argue that the cross does not have religious significance in the context of a war memorial. Petitioner Commission, for example, contends that a cross memorial can commemorate the entire community. Comm'n Br. 41-42. *Amici* Veterans of Foreign Wars claim that crosses were ubiquitous in American World War I cemeteries across Europe, simply because the United States "most strongly associated [the cross] with the ultimate sacrifice that so many made during one of the deadliest wars in America's history." Br. for *Amici Curiae* Veterans of Foreign Wars (VFW Br.) 16, 20.

With respect, those groups do not purport to speak for Jewish veterans, and the historical record shows that they are wrong. First, the notion that a cross or war memorial consisting of a cross speaks for the community

as a whole negates the profound beliefs held by Jews and other non-Christians. Petitioner Commission argues that the cross in the war memorial context "honor[s] universal values," Comm'n Br. 1, but the cross is not a universal symbol. Veterans of all faiths are bound together by their love of country, but they are not bound together by the cross. It does a disservice to both Jewish veterans—and indeed Christian veterans—to suggest otherwise. Moreover, anti-Semitism has long given rise to claims that Jews have not fought for their country. *See* Simon Wolf, *The American Jew As Patriot, Soldier and Citizen* vii-ix, 1-11 (1895). JWV was formed in part to rebut that hateful canard, and JWV's work is undermined when governments erase Jews' service to America by purporting to honor all soldiers with a Christian symbol.

Second, the United States did not exclusively use crosses to memorialize the fallen of World War I. "In American military cemeteries overseas, the graves of soldiers who perished in that war were marked with either a white cross *or a white Star of David*." *Buono*, 559 U.S. at 726 (Alito, J., concurring) (emphasis added). Specifically, during World War I, the War Department determined that the graves of Jewish soldiers who had died in battle would be marked with the Star of David. *See Jewish Soldiers' Graves To Be Marked by a Double Triangle Instead of a Cross*, N.Y. Times, July 25, 1918, at 22.

Major General Crosby explained in a 1930 address that "[m]any of our heroic dead lie in Flanders Field, Suresnes, Belleau Wood, and elsewhere. The star of David is mingled with the cross in beautiful and

everlasting marble. As they lived together, fought together, so they lie buried, side by side." 72 Cong. Rec. 11064 (1930). To this day, the graves of Jewish soldiers are marked with the Star of David, not a Christian cross, in American military cemeteries overseas.[2]

Today, the U.S. Department of Veterans Affairs offers 70 different emblems of belief for memorial headstones for the graves of deceased veterans. *See* U.S. Dep't of Veterans Affairs (VA), ***Eligibility for a Headstone or Marker***, https://www.cem.va.gov/cem/hmm/eligibility.asp (last updated Oct. 30, 2018); *id.*, ***Available Emblems of Belief for Placement on Government Headstones and Markers***, https://www.cem.va.gov/cem/hmm/emblems.asp (last updated June 12, 2018), but the headstones themselves have a neutral shape, *id.*, ***Types of Headstones, Markers and Medallions Available***, https://www.cem.va.gov/cem/hmm/types.asp (last updated Oct. 30, 2018). The VA understands that its ranks continue to be made up of adherents of diverse religious beliefs. Accordingly, the VA permits a veteran's family to honor those beliefs by selecting any of the religious emblems or petitioning the VA to provide an emblem for another religion. *Id.*

To prove the supposed ubiquity of the Latin cross as a war memorial, *amici* led by the VFW point to the use of the Cross of Sacrifice, a cross adorned with a bronze sword, in war cemeteries across the former British Empire. VFW Br. 21. But the British selection of that

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[2] *See American Battle Monuments: A Guide to Military Cemeteries and Monuments Maintained by the American Battle Monuments Commission* 10 (Elizabeth Nishiura ed., 1989).

monument confirms its religious meaning: the Commonwealth War Graves Commission chose the cross in "recognition of the fact that we are a Christian Empire" and to represent "the great majority [for whom] the Cross is the symbol of their faith." Sir Frederic Kenyon, *War Graves: How the Cemeteries Abroad Will Be Designed* 10-11 (1918), http://handle.slv.vic.gov.au/10381/90357. Its design, approved by the Archbishop of Canterbury, *see* Reginald Blomfield, *Memoirs of an Architect* 179 (1932), evoked Britain's use of Christian ideas in wartime propaganda, most famously in a lithograph titled "The Great Sacrifice" that connected soldiers' deaths to the crucified Christ, *see* Alex King, *Memorials of the Great War in Britain: The Symbolism and Politics of Remembrance* 129-30 (1998). Britain—a nation with an established church headed by its monarch as Defender of the Faith—chose the cross as a war memorial precisely because it was religious, illustrating why it is such an inappropriate symbol for a country that is not a "Christian Empire."

The cross, in other words, is not, and has not been employed as, a non-sectarian war memorial precisely because it conveys the message that the veteran resting beneath was Christian.

C. The Bladensburg Cross is a Christian symbol that does not represent the sacrifice of Jewish soldiers from the area.

The Bladensburg Cross, as a forty-foot-tall cross-shaped war memorial, is literally a towering example of the religious symbolism discussed above. JWV will not fully canvas the sectarian aspects of the Cross's history

and surroundings because Respondents have ably handled that subject, Resp. Br. 53–66, but several points are particularly germane to JWV.

First, from its inception, organizers and official supporters acknowledged the Cross's Christian significance. For example, when the monument was first proposed, local newspapers and supporters referred to the project as the "Calvary Cross," a reference to the proper name of the place where the Christian Bible teaches Jesus Christ was crucified. J.A. 134-35 (citing Wash. Post, June 8, 1919, at A11). And at the official dedication in 1925, two Christian prayers were given. *Legion Dedicates War Memorial Cross*, Wash. Post, July 13, 1925, at 14, J.A. 449-50. "[O]nly Christian chaplains took part," and "[n]o other religions were represented." *Am. Humanist Ass'n*, 874 F.3d at 201. Given this history, *amici* Orthodox Jewish organizations' argument supporting Petitioners, predicated on the notion that the cross was "built and maintained with public funds for 'secular commemoration,'" Br. for *Amici Curiae* Orthodox Jewish Organizations 3, is simply misguided.

Second, JWV has no way of determining whether any of the soldiers named on the Cross are Jewish, but Jews certainly lived in Prince George's County at the time. *See* 21 *American Jewish Year Book* 605 (Sept. 1919) (estimating that 62,642 Jews lived in Maryland in 1918). And given that Prince George's County was (and is) a relatively populous part of Maryland, it is likely that the County contributed at least some of the 2,000 Jewish Marylanders who served in World War I, and it is at least possible that some of the more than 3,500 Jews who

died in the War came from the County. By using a Christian symbol of salvation, the Cross does not honor their sacrifice.

Third, more than 11,000 Jews live in the County today. Janet Krasner Aronson *et al.*, *2017 Greater Washington Jewish Community Demographic Study*, Steinhardt Social Research Institute, Brandeis University (Feb. 2018), http://www.brandeis.edu/ssri/communitystudies/dcreport.html. What they see when they look at the County's war memorial is a 40-foot high representation of the preeminent symbol of Christianity. The Cross stands alone on and dominates a "traffic island taking up one-third of an acre on a busy intersection" in Prince George's County. *Am. Humanist Ass'n*, 874 F.3d at 201. And while the Cross is technically located within a larger "Veterans Memorial Park," the Cross stands apart from other monuments and is the park's most prominent feature: there are a handful of other war monuments scattered throughout this park, but none stand taller than ten feet, and each is located between 200 feet and one-half-mile away from the cross. The Cross's religious iconography and message in connection with the County's war dead is inescapable and hurtful: that this is a Christian country whose soldiers can be honored with Christian symbols, and that Jews are excluded.

II. The Government's Support of the Cross Is Unconstitutional Under Core Establishment Clause Principles.

JWV recognizes that the parties dispute, and this Court has long debated, the proper test for assessing Establishment Clause claims. But whatever the precise

test may be, the Cross fails the Establishment Clause's core prohibition—the constant on which this Court has relied to construct its Establishment Clause tests—that the government cannot privilege one religion over others. Failing that core prohibition, the Cross must fail the Establishment Clause itself.

As recently as last Term, this Court reiterated that "[t]he clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another." *Trump v. Hawaii*, 138 S. Ct. at 2417 (alteration in original) (quoting *Larson*, 456 U.S. at 244). Regardless of Petitioners' claim that this Court's previous rulings have fostered uncertainty about the precise test applicable to Establishment Clause claims, this Court's mandate against creating an official preference for one religion should lead this Court to find that the Cross violates the Establishment Clause.

This neutrality principle has been the common thread tying together this Court's Establishment Clause decisions. *See, e.g.*, *Wallace v. Jaffree*, 472 U.S. 38, 60 (1995) ("Such an endorsement [of prayer] is not consistent with the established principle that the government must pursue a course of complete neutrality toward religion."); *Allegheny*, 492 U.S. at 605 ("Whatever else the Establishment Clause may mean[,] . . . [it] means at the very least that government may not demonstrate a preference for one particular sect or creed (including a preference for Christianity over other religions)."); *McCreary Cty. v. ACLU*, 545 U.S. 844, 860 (2005) ("The touchstone for our analysis is the principle that the 'First Amendment mandates governmental neutrality between religion and religion, and between

religion and nonreligion.'" (quoting *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968))); *McCreary Cty.*, 545 U.S. at 875-76 ("Given the variety of interpretive problems, the principle of neutrality has provided a good sense of direction: the government may not favor one religion over another ...."); *Torcaso v. Watkins*, 367 U.S. 488, 492-93 (1961) ("The 'establishment of religion' clause of the First Amendment means at least this: Neither a state nor the Federal Government can ... prefer one religion over another." (quotation marks omitted)).

The Bladensburg Cross violates this "clear command" of neutrality for the reasons discussed above. Here, the cross privileges the Christian view of the afterlife and, in so doing, promotes Christianity over both other religions and nonreligion. A government can undertake no more solemn and important a task than commemorating those who gave their lives for their country. Indeed, a war memorial allows those who sacrificed their lives to live on eternally in the memory of those who succeed them. But when that memorial takes the form of a religious symbol of the afterlife available only to Christians, the government is favoring one faith—and excluding others—in a deep and important way.

Perhaps recognizing this, Respondent American Legion proposes that this Court adopt a "coercion" test, under which only those acts that "coerce belief in, observance of, or financial support for religion" violate the Establishment Clause. American Legion Br. 23. That test does not comport with this Court's precedents described above, and this case demonstrates the

inadequacy of limiting the Establishment Clause's scope to coercion. Perhaps no one is coerced when the government adopts and embraces the religious beliefs of one group of war dead over another, but in doing so the government crosses a line of favoritism that it should not. The religious beliefs of all, not some, of the country's veterans are worthy of respect. There are some things that are worse than coercion. And for those Jewish soldiers who fought and gave their lives for the country, the government's decision to honor only the salvation that Christians believe is due to Christians is hurtful, wrong, and not in keeping with the promise of the Constitution.

In short, the war memorial Cross, by privileging one religion in a context where it is of the greatest importance to respect the sacrifice of all who gave their lives for the country, fails what the Establishment Clause clearly commands—government neutrality between religion and religion, as well as between religion and nonreligion.

III. Affirming the Fourth Circuit Would Not Affect Most War Memorials.

Affirming the Fourth Circuit's decision in this case would not, despite Petitioner Commission's claim, have the sweeping effect of invalidating every war memorial that features religious symbolism, including those in Arlington National Cemetery. Comm'n Br. 52-53. The Department of Veterans Affairs, recognizing that American veterans have different religious—or no religious—beliefs, offers 70 different symbols, including religious symbols, that individuals or their families can select for their headstones and markers. U.S. Dep't of

Veterans Affairs, *General Information Sheet: Claim for Standard Government Headstone or Marker*, https://www.va.gov/vaforms/va/pdf/VA40-1330.pdf. The government's use of a religious symbol on each headstone does not elevate one faith above others. These religious symbols instead represent an accurate extension of that veteran's identity, and reasonable viewers would not interpret the headstone markers as privileging one religion above others. For that reason, those headstone markers are consistent with the Establishment Clause, while the Bladensburg Cross is not.

The Bladensburg Cross also is distinguishable from Arlington National Cemetery's two World War I memorials that take the form of crosses. Those memorials are located in a well-known 624-acre national cemetery commonly understood as existing for the purpose of honoring American veterans. Those who visit the cemetery do so expecting to view religious symbols, whether on individual headstones or as standalone monuments. The context and historical significance surrounding the cemetery make the non-secular message clear to visitors.

Moreover, unlike those two memorials, which stand at thirteen and twenty-four feet, *see* VFW Br. 21, 22, and are manifestly part of the larger cemetery, the Bladensburg Cross is a comparative monolith—standing at forty feet, set off from and "overshadowing the other monuments, the tallest of which is only ten feet tall and located approximately 200 feet from the Cross," *Am. Humanist Ass'n*, 874 F.3d at 209; *see also supra* Part 1.C.2. Thus, the Bladensburg Cross "evokes a message

of aggrandizement and universalization of religion, and not the message of individual memorialization and remembrance that is presented by a field of gravestones." *Trunk*, 629 F.3d at 1116 n.18.

Affirming the Fourth Circuit's decision will not have the drastic effect of raising constitutional questions about every war memorial displaying a religious symbol. Unlike many of those memorials, including those in Arlington National Cemetery, the Bladensburg Cross, towering at 40 feet alone at a busy intersection, sends to observers the message that the government privileges Christianity—specifically, Christianity's view of the afterlife—over other religions and the nonreligious. And that message is one the government is not, under the Establishment Clause, permitted to convey.

CONCLUSION

This Court should affirm the decision of the Court of Appeals.

Respectfully submitted,

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